

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.:
Issue No.:
Case No.:
Hearing Date:



ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on June 27, 2011. The claimant appeared and testified. [REDACTED] FIM, appeared on behalf of the Department of Human Services (Department of DHS.)

ISSUE

Was the Department correct in its calculation of Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of FAP in a household of two.
2. Claimant was a student.
3. Claimant has a child [REDACTED] years of age.
4. The Department decreased Claimant's group's FAP benefits, effective April 1, 2011, due to Claimant being an ineligible student.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Per BEM 245, p. 3-4, a person in student status may be eligible for FAP benefits if the student is employed for at least twenty hours per week. However, if the person provides

more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:

- Enable the person to attend class and work at least 20 hours per week.
- Participate in a state or federally-financed work study program during the regular school year,

Or is

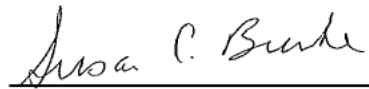
A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12 . . .

then the student is exempt from working.

In the present case Claimant provided more than half of the physical care of her daughter, [REDACTED] but she did not attend school full time. However, the Department did not present evidence that the local office had determined that adequate child care was available to enable Claimant to attend class and work or participate in a work-study program per BEM 245. Without this information, I cannot determine whether the Department was correct in its decision to decrease Claimant's group's FAP benefits due to Claimant being an ineligible student. Therefore, it is determined that the Department was incorrect in its decision to decrease Claimant's group's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law decides that the Department was incorrect in its decision to decrease Claimant's group's FAP benefits, and it is therefore ORDERED that its decision is REVERSED. It is further ORDERED that the Department shall re-determine Claimant's eligibility, effective April 1, 2011, and ongoing, taking into account whether adequate child care was available for Claimant. It is further ORDERED that if Claimant meets eligibility requirements, any missed or increased payments shall be made in the form of a supplement.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 6/30/11

Date Mailed: 6/30/11

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.

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